

**GENERAL EXCOMMUNICATIONS OF UNKNOWN MALEFACTORS:
CONSCIENCE, COMMUNITY, AND INVESTIGATIONS IN ENGLAND, c. 1150-1350**

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In high and late medieval England, general sentences of excommunication pronounced against unnamed wrongdoers were common. Responding to crimes where the perpetrators were unknown, general excommunications were a valuable tool that sought to discover and punish offenders in a number of ways. Solemn denunciations might convince the guilty to confess in order to avoid damnation, or persuade informants to volunteer information. General sentences were also, however, merely a precursor to investigations launched into those responsible. Public denunciations aided investigations conducted by clergy in the local community by publicising and forcibly condemning the crime committed. Once discovered, suspects were summoned to the bishop's court and were either forced to make amends and do penance, or were excommunicated by name. This essay therefore argues that general sentences were far more complex, effective and legally significant than they are often perceived to be.

In the 1160s,¹ an old man was forced by necessity to sell some wood he owned. Being old and feeble, he entrusted the business of the sale to his adolescent son. The son, however, was greedy, defrauding his father by keeping most of the money from the sale for himself. Not suspecting his son, but certain that he had been wronged, the father asked his parish priest to bind with anathema 'whoever had brought this loss upon him'. Three times the priest warned that he would pronounce the sentence, yet the son admitted nothing, publicly or privately. Finally the excommunication was pronounced, but still the son felt no remorse, disregarding the fact that Satan now possessed his body and soul. But then, one night while he was fast asleep, completely naked except for a nightcap, two malignant spirits appeared. Dragging him out, the spirits cried in terrible voices, 'You are ours and you are coming with us!'. In the morning, only the nightcap was found. It later transpired that the spirits had taken their (presumably still naked) prisoner to the Thames, where they had forced some sailors to ferry them across, 'for no other reason, I suspect, than that what had happened should afterwards be made known by them.'²

This story, related in Peter of Cornwall's *Book of Revelations* (c.1200) describes the excommunication of an unknown malefactor, and was intended to serve as a warning to excommunicates. Whilst the tale provides a satisfying conclusion, however, a considerable

¹ 'Before the martyrdom of St Thomas'.

² Peter of Cornwall, *Book of Revelations*, ed. R. Easting and R. Sharpe (Toronto, 2013), no. 2897.

problem with sentences pronounced against unnamed criminals is evident. Barring a miracle, someone excommunicated anonymously could ‘get away with’ their crime. Nobody had been aware of the son’s guilt; he himself had not admitted to his crime. Had the sailors not been involved, no one would have known that he had been dragged off to hell or have discovered who had committed the crime. Yet such sentences, condemning unknown perpetrators after a crime, were common practice in high medieval England.

It is easy to understand why general sentences, chastising criminals whose names were not even known, might be dismissed as being of little practical value. Thus John Arnold, noting the numerous blanket excommunications in Oliver Sutton’s episcopal register, has commented ‘This was not a strong form of policing, more a sign of relative impotence.’³ There is also a recognisable connection between excommunications censuring unknown offenders and eleventh-century monastic clamours. Lester Little argued that eleventh-century maledictions were last resorts, used by those without power following the supposed collapse of Carolingian public justice. They called upon God when there was no help to be found on earth. The powerless were thus resorting to liturgy when they had no recourse to law.⁴ Seen against this background, thirteenth-century general excommunications could similarly be viewed as futile shouting at the sky. However, just as Little’s presentation of liturgical clamours as products of lack of judicial authority has been criticised, the judicial procedures that accompanied general sentences in high medieval England ought similarly to be acknowledged.⁵

It is the purpose of this paper to explore general sentences and their outcomes. Aimed at both the individuals who committed crimes and the communities around them, the ways in which general excommunications worked are more complex and effective than has been recognised. Most obviously, these sentences were intended to scare offenders into coming forward. Moreover, they were publicly pronounced, so that neighbours who knew the perpetrators would put pressure onto them to own up, or alternatively report them to the authorities. The focus here, however, is on a process, developed probably during the thirteenth century, initiated by general sentences. Following the pronouncement of a general excommunication, an investigation (*inquisitio*) was routinely launched into who had

³ John Arnold, *Belief and Unbelief in Medieval Europe* (London, 2005), 182.

⁴ Lester K. Little, *Benedictine Maledictions: Liturgical Cursing in Romanesque France* (London, 1993), 186-229.

⁵ Richard E. Barton, ‘Making a clamor to the lord: noise, justice and power in eleventh- and twelfth-century France’, *Feud, Violence and Practice: Essays in Medieval Studies in Honor of Stephen D. White*, ed. B.S. Tuten and T.L. Billado (Farnham, 2010), 213-35.

perpetrated these offences: communal knowledge of crimes was actively sought by ecclesiastical authorities. Far from being desperate prayers, general sentences were merely the beginning of a judicial process, made possible by legal and administrative developments. Through these investigations, previously unknown offenders were discovered and brought to justice. The nature of general sentences meant that it was perfectly possible for individuals to be excommunicated without anyone else knowing. Similarly, *ipso facto* sentences, or *latae sententiae*, did not excommunicate named individuals, but bound anyone who had or would in future commit certain specified offences. As a result, though being anonymously excommunicated had serious implications for a person's soul, none of excommunication's tangible temporal consequences, such as ostracism or withdrawal of legal rights, could follow. Excommunication's consequences prior to death, particularly from a legal perspective, might be negligible.⁶ Donald Logan thus found that even individuals known to have incurred an automatic excommunication were not typically arrested by the secular arm (called upon to seize obstinate excommunicates) and Elisabeth Vodola noted that they rarely suffered withdrawal of legal rights.⁷ However, investigations launched by general sentences enabled those who had incurred *ipso facto* excommunications to be denounced by name. They could subsequently be treated just like any other excommunicate. Any notion that *ipso facto* sentences did not result in the usual legal consequences of excommunication is dispelled by an analysis of general sentences.

Over fifty years ago, Rosalind Hill noted that general excommunications occur frequently in the registers of bishops Sutton and Dalderby of Lincoln, and archbishops Greenfield and Melton of York. Despite Hill's remark that the topic deserves closer investigation, and the fact that such sentences are easily found in many more registers, these excommunications have been little studied in the half-century since her article.⁸ Certainly, in recent years a number of studies have illuminated *latae sententiae* excommunications. However, though deeply linked, *latae sententiae* and general excommunications are not interchangeable. The general sentences under discussion here responded to particular crimes

⁶ That the faithful might unwittingly incur *ipso facto* sentences was a cause for concern amongst medieval canonists. See Felicity Hill, 'Magna Carta, canon law and pastoral care: excommunication and the church's publication of the charter', *HR* 89 (2016), 636-50. For concerns about unknown excommunicates interacting with the faithful see Christian Jaser, *Ecclesia maledicens: Rituelle und zeremonielle Exkommunikationsformen im Mittelalter* (Tübingen, 2013), 369-70.

⁷ F.D. Logan, *Excommunication and the Secular Arm* (Toronto, 1968), 139; Elisabeth Vodola, *Excommunication in the Middle Ages* (Berkeley, 1986), 80, 99, 181-2.

⁸ Rosalind Hill, 'The theory and practice of excommunication in medieval England', *History* 42 (1957), 1-11.

recently perpetrated.⁹ Although the ritual and penitential significance of papal and local *ipso facto* sentences has been acknowledged, attempts to seek out unknown excommunicates following a crime remain unexplored.¹⁰ Discussions of individuals being bound by such sentences have tended to focus on petitions to the papal penitentiary for absolution. Thus Christian Jaser notes only that *ipso facto* sentences sought to induce people to turn themselves in by appealing to individual consciences.¹¹ R. H. Helmholz and Véronique Beaulande-Barrau have both discussed cases in which those accused of incurring excommunication for assaulting clergy (*Si quis suadente*, 1139) were dealt with in court, but do not discuss the courts looking for unknown excommunicates.¹² The 1418 decree *Ad vitanda*, which declared that only excommunicates who had been denounced by name ought to be avoided, not those bound by general sentences, has not prompted a consideration of how someone might move from one category to the other.¹³

In theory, any offence could be punished by a general sentence, but in practice the vast majority of general sentences declared in England responded to crimes that already incurred automatic excommunications. This solved two potential problems with general sentences. The first was that excommunication required warnings. In cases where the crime anyway incurred a *lata sententia*, the perpetrator was already excommunicated, and there was no need for this delay before the excommunication was pronounced (where no *ipso facto*

⁹ The distinction is not always clear: the papal yearly excommunication is termed a ‘general sentence’ but corresponds better with this definition of *latae sententiae*. For *latae sententiae* see Huizing, ‘The earliest development of excommunication latae sententiae; Jaser, *Ecclesia maledicens*, 359-73; Vodola, *Excommunication*, 28-35; R.H. Helmholz, *The Spirit of Classical Canon Law* (London, 1996), 383-90; Arnaud Fossier, *Le Bureau des Âmes: Écritures et Pratiques Administratives de la Pénitencerie Apostolique (XIIIe-XVIe siècle)* (Rome, 2018), 402-6. Much of my forthcoming book, *Excommunication in Thirteenth-Century England* deals with *ipso facto* excommunications.

¹⁰ Agostino Pavicini Bagliani has traced the development of papal general sentences pronounced yearly on Maunday Thursday: ‘Bonifacio VIII, la loggia di giustizia al Laterano e i processi generali discomunica’, *Rivista di Storia della Chiesa in Italia* 59 (2005), 377-428, at 391-405; *idem*, ‘Il rito pontificio di scomunica da Gregorio VII a Innocenzo III’, *Il potere del papa: Corporeità, autorappresentazione, simboli* (Firenze, 2009), 215-26; Fossier, *Le Bureau des Âmes*, 409-24; Christian Jaser ‘*Ostensio exclusionis*: Die päpstliche Generalexkommunikation zwischen kirchenrechtlicher Innovation und zeremoniellem Handeln’, in *Die Päpste: Amt und Herrschaft in Antike, Mittelalter und Renaissance*, ed. B. Schneidmüller et al. (2016), 357-83. Jaser’s *Ecclesia Maledicens*’s fourth part (374-525) focuses on the Maundy Thursday papal sentence. R.H. Helmholz has also linked the growing power of the papacy to *latae sententiae*: “‘Si quis suadente’ (c.17 q.4 c.29): Theory and practice’, in *Proceedings of the Seventh International Congress of Canon Law*, ed. Peter Linehan (1988), 425-38.

¹¹ Jaser, ‘*Ostensio exclusionis*’, 364.

¹² Helmholz, “‘Si quis suadente’”, 432-7; Véronique Beaulande, *Le Malheur d’Être Exclu? Excommunication, Réconciliation et Société à la fin du Moyen Âge* (Sorbonne, 2006), 96-102.

¹³ Jaser, *Ecclesia Maledicens*, 370-3.

sentence was involved, warnings remained necessary).¹⁴ Additionally, it meant that the sentence was binding whoever pronounced it: the sentence was issued by the law. The one making the denunciation was merely publicising an excommunication already incurred.¹⁵ This solved the problem that a general sentence only bound those in the jurisdiction of the one pronouncing the sentence (as stated in the *Liber Extra*).¹⁶ The ensuing general sentence would invoke the relevant *lata sententia*, publicise the crime and launch an investigation. If the culprits were subsequently discovered, whatever offence had originally deserved the automatic excommunication would no longer be noted in other documents (for example writs ordering the capture of those excommunicated for forty days or more).¹⁷

The *latae sententiae* most frequently cited in general sentences were provincial *ipso facto* excommunications pronounced by Archbishop Stephen Langton in the 1222 Council of Oxford and issued by the papal legate Ottobuono in the 1268 Council of London. The ‘original’ *lata sententia*, pronounced at the 1139 Lateran Council (*Si quis suadente*), was also often invoked. The excommunications that occurred most often thus punished assaulting clergymen (*Si quis suadente*), infringing the rights and liberties of churches (1222 Council of Oxford, c. 1), defamation (Council of Oxford, c. 5), stealing from ecclesiastical houses, manors or lands (1268 Council of London, c. 12), and removing fugitives from sanctuary (Council of London, c. 12). All these sentences were promulgated frequently in parish churches.¹⁸ General sentences were thus typically used in response to attacks against the church, its rights and its members. Theft was frequently cited, but it was usually theft of ecclesiastical property or from clergymen. With the exception of defamation cases, correcting private wrongs on behalf of the laity appears to have been far less common. Although Helmholz noted that *Si quis suadente* cases were treated both as criminal and civil causes in ecclesiastical courts, brought either *ex officio* or at the instance of private parties, in the cases

¹⁴ e.g. *The Register of Ralph of Shrewsbury, Bishop of Bath and Wells, 1329-1363*, ed. Thomas Scott Holmes, ii, Somerset Record Society 10 (1896), 470; *The Register of John Waltham, Bishop of Salisbury, 1388-1395*, ed. T.C.B. Timmins, CYS 80 (1994), no. 66.

¹⁵ Robert of Flamborough, *Liber Poenitentialis: A Critical Edition*. Ed. J.J. Francis Firth (Toronto, 1971), 147; *Registrum epistolarum fratris Iohannis Peckham, archiepiscopi Cantuariensis*, ed. C. Trice-Martin, 3 vols. (RS, 1882–85), i, 178, 392s, 180, 392t.

¹⁶ X 5.39.21 (*CICan*, ii, 896). This perhaps contradicts earlier practice: see Flamborough, *Liber Poenitentialis*, 146-7; Thomas of Chobham, *Summa Confessorum*, ed. D. Broomfield (Louvain, 1968), 210-11.

¹⁷ These typically simply note ‘manifest offences and contumacy’. See Logan, *Excommunication and the Secular Arm*.

¹⁸ C.17, q.4, c.29 (*CICan*, i, 822); *Councils and Synods with other documents relating to the English Church, II, A.D. 1205–1313*, ed. F.M. Powicke and C.R. Cheney, 2 vols. (Oxford, 1964), i, 106-7, ii, 764, 905-7. All eleven of Peckham’s collected excommunications could result in general sentences, but those I have not mentioned above were less commonly cited in the process.

under discussion here ecclesiastical officials seem to have been acting *ex officio*, responding to crimes that automatically incurred excommunications.¹⁹ However, offences may well have been brought to the bishop's attention by offended parties.

Hope of divine retribution may therefore have been in the minds of some of those clerics who excommunicated unidentified persecutors. These clerics had often been personally injured or robbed. Nevertheless, leaving aside hopes for supernatural punishment, the intention behind general sentences was that the guilty seek absolution, make restitution and perform public penance. Such an outcome would satisfy the requirements of pastoral care, satisfy the injured party, and ensure that the bishop was seen to have an effective system whereby offenders were discovered and punished. These cases are presented in the sources as self-contained, not as pre-cursors to further proceedings elsewhere. However, further research may reveal that the process was used in this way; some of these offences would certainly have been of interest to secular authorities.²⁰

The first way general sentences might work was by scaring the offender into confessing. This was linked to the idea that God would exact vengeance; convincing people that they might be struck down is the point of miracle stories such as the opening example. Perhaps more potent, however, was the fear, not that death would be hastened, but that it would be followed by an eternity in hell. General sentences were invariably pronounced with a dramatic ceremony which implied that recalcitrant excommunicates would suffer this fate. At the culmination of the ceremony bells were rung, and candles held by the clergy pronouncing the sentence were thrown to the ground, as a version of the phrase 'As these lights are extinguished, so their souls are extinguished in hell' was uttered.²¹

General sentences therefore sought to put pressure on the consciences of the guilty to bring about a confession.²² The possibility that sinners felt anxious about being excommunicated, even if their state was not public knowledge, should be taken seriously. As Hill remarked, 'perhaps the solemnities of bell, book and candle stirred up a spark of piety

¹⁹ Helmholz, "Si quis suadente", 432.

²⁰ Ian Forrest notes that violation of sanctuary, involving multiple jurisdictions, was a point of contention: *Trustworthy Men: How Inequality and Faith made the Medieval Church* (Princeton, 2018), 315-6.

²¹ In formulae, 'nisi' clauses offered offenders an opportunity to avoid this fate. Much has been written about ritual excommunication. Christian Jaser's recent *Ecclesia maledicens* treats it at length. For further references, see Felicity Hill, 'Damnatio eterna mortis or medicinalis non mortalis: the ambiguities of excommunication in thirteenth-century England', *Thirteenth Century England XVI*, ed. A.M. Spencer and Carl Watkins (Woodbridge, 2017), 37-53, at 49-53.

²² Jaser, 'Ostensio exclusionis', 364; Jaser, *Ecclesia Maledicens*, 369.

even in a hardened burglar.²³ *Latae sententiae* incurred only secretly are known to have prompted petitions to the apostolic see for absolution.²⁴ Similarly, episcopal registers suggest that general sentences could prompt voluntary confessions from the guilty. Thus, in 1279, the bishop of Hereford received three foresters ‘humbly seeking’ absolution. They were afraid that they were bound (*‘timentes se ligari’*) by an *ipso facto* excommunication promulgated against all those who maliciously prevented the bishop enjoying the liberty of his chase at Malvern.²⁵ In cases such as this, it could be argued that unacknowledged pressures (such as rumours in the parish) were in fact behind these seemingly voluntary pleas for absolution. Certainly the formulaic language of humility used by clergy recording these confessions, should be treated with caution. Any number of additional considerations could have factored into these criminals’ decision to come forward.²⁶ Equally, however, that excommunicated criminals harboured fears about the state of their souls is perfectly credible. General excommunications could compel absolutions by playing upon such fears.

Nevertheless, if trying to scare sinners into confessing was the only purpose of these general sentences, it would be reasonable to view them as fairly weak. Though much of the power of general sentences derived from spiritual fears, many criminals would surely have acted like the adolescent in the opening tale, jubilantly feeling they had got away with their crime. Barring a miracle, such unidentified criminals would indeed have done so. However, the effectiveness of general sentences was not limited to appeals to criminals’ consciences and fears. They were aimed at communities as much as at individuals.

General sentences were pronounced on Sundays and feast days in churches in the vicinity of the offence committed. Members of the parish, city or diocese who heard the well-publicised excommunication could report any information they had to ecclesiastical authorities, or perhaps urge the guilty to come forward. They might act out of anger or a sense of justice, or they might fear that their friend or relative would end up in hell without absolution. Often general sentences were worded dramatically; it seems that part of the intention was to persuade the audience that the offence required punishment. John of Pontoise, bishop of Winchester, described how satellites of Satan, forgetful of their salvation,

²³ Hill, ‘Theory and practice’, 10.

²⁴ See for instance *A Formulary of the Papal Penitentiary in the Thirteenth Century*, ed. H.C. Lea (Philadelphia, PA, 1892).

²⁵ *The Register of Thomas de Cantilupe, Bishop of Hereford (A.D. 1275–1282)*, ed. R.G. Griffiths, CYS 2 (1906), 227–8.

²⁶ See John Arnold’s discussion of the weight historians give to religious conviction versus political functionalism: *Belief and Unbelief*, 7–8.

with fear of God put aside, had ‘with diabolic instinct’ hostilely besieged a church in an armed multitude.²⁷ Similar language is found in many general sentences, which routinely term the unknown sinners ‘sons of Belial’, ‘limbs of the devil’ and other such condemnatory titles. To ensure understanding, it was sometimes specified that the vernacular ought to be used for these denunciations: ‘in the mother tongue understandable to all’.²⁸ Communities may not have always been swayed by such descriptions, but the church was certainly seeking informants. In some cases, most obviously theft, nobody might have known who was responsible. Yet if the theft described in the miracle had happened in reality, we might imagine that once it had been publicised, people would notice the son’s sudden wealth and begin to suspect him. When Walter Giffard, archbishop of York, sought to find the thieves who stole a rector’s horses and books, he ordered an investigation into whom the stolen goods had reached.²⁹ The miracle story does not mention that the priest was hoping others would turn in the thief, but it is likely that this had long been part of the purpose of publicising general sentences. Some of those who confessed may, therefore, have been forced to do so by communal pressure. Conscience was certainly not the only reason to confess to a crime that incurred excommunication.

Usually, however, those who confessed did not appear of their own accord, but were cited following an investigation. This was the key development in general sentences of excommunication. General sentences had probably long sought to encourage snitches, but by the end of the thirteenth century they no longer relied upon them volunteering information. Sentences customarily launched investigations, harnessing the new administrative structures and growing episcopal power to seek out communal knowledge of crimes. Vehement denunciations of unknown malefactors urged the guilty to confess, but also facilitated the ensuing investigations by publicising the crime committed and persuasively condemning those involved.

It is difficult to be certain when investigations into the names of malefactors first began. Evidence only survives in episcopal registers (in this period at least), which in turn begin to survive from the second half of the thirteenth century. In some form, general sentences certainly had a much longer history. The miracle story with which this article

²⁷ *Registrum Johannis de Pontissara, episcopi Wyntoniensis, A.D. 1282–1304*, ed. Cecil Deedes, 2 vols., CYS 19, 30 (1915–24), 352–3.

²⁸ For example, *Registrum Henrici Woodlock, Diocesis Wintoniensis, A.D. 1305–1316*, ed. Arthur Worthington Goodman, 2 vols., CYS 43–44 (1940–41), 352.

²⁹ *The Register of Walter Giffard, Lord Archbishop of York, 1266–1279*, ed. W. Brown, SS 109 (1907), 225–6.

opened, set in the mid-twelfth century and recorded at the turn of the thirteenth, describes the old man's remedy as an unusual one, though this may refer to his being a layman rather than general sentences as a practice. According to his hagiography, St Hugh of Lincoln (d. 1200) issued a general sentence (the one culprit who refused to seek absolution consequently suffered terrible misfortunes).³⁰ Writing in the early thirteenth century, Robert of Flamborough matter-of-factly noted the practice while giving a (slightly odd) definition of excommunication by name: someone is excommunicated by name by both 'I excommunicate Peter' and 'I excommunicate he who stole that horse', if Peter stole it.³¹ The earliest surviving episcopal register, of Hugh of Wells, bishop of Lincoln (1209-35), mentions numerous people bound the general excommunication pronounced against the rebellious barons in 1215.³² General excommunications are likely to have become more common after 1222, when Stephen Langton ordered seven *ipso facto* excommunications to be publicised four times a year. Clergy would therefore have been increasingly aware of automatic excommunications.³³ The administrative and legal structures necessary to hold successful investigations—local clergy conducting investigations, middling clergy arranging them and the denunciations which publicised crimes, and bishops and archbishops, overseeing the whole process and to whose court anyone discovered was sent—indicate that the process may have developed in the mid-thirteenth century. Laymen were used from the late twelfth century to make presentments about clerical conduct in their dioceses. Reporting on fellow laypeople appears to have been the innovation of Robert Grosseteste, bishop of Lincoln, in 1238/9.³⁴ This process of episcopal-led investigation into unnamed excommunicates was thus plausibly developed as diocesan authority became more centralised during the thirteenth century, though may have earlier roots impossible to trace through the extant evidence.³⁵ Sampling of episcopal registers from dioceses across England indicates that general excommunications and linked investigations remained an important practices through the fourteenth and into the fifteenth century. Examples towards the end of the fifteenth century

³⁰ *The Life of St Hugh of Lincoln*, ed. and trans. D.L. Douie and D.H. Farmer, 2 vols. (Oxford, 1961–85), ii, 197–9.

³¹ Flamborough, *Liber Poenitentialis*, 153–4.

³² *Rotuli Hugonis de Welles, episcopi Lincolnensis, A.D. MCCIX-MCCXXXV*, ed. W.P. Pillimore and F.N. Davis, i, CYS 1 (1907). It does not, however, contain general sentences of the sort under discussion.

³³ *Councils and Synods*, 106–7, 125.

³⁴ *Lower Ecclesiastical Jurisdiction in Late Medieval England*, ed. L.R. Poos (Oxford, 2001), lx–lxi; A.D. Brown, *Popular Piety in Late Medieval England: The Diocese of Salisbury 1250–1550* (Oxford, 1995), 77–83; Ian Forrest, 'The transformation of visitation in thirteenth-century England', *P&P* 221 (2013), 3–38.

³⁵ Helmholz links English canonical 'juries' to earlier Carolingian practices: 'Canonical "juries" in medieval England', in *Ins Wasser geworfen und Ozeane durchquert. Festschrift für Knut Wolfgang Nörr*, ed. Mario Acheri et al. (Köln, 2003), 403–18.

are harder to find in registers. Act Books of episcopal courts, which survive mostly from the fifteenth century, were beyond the scope of this study, but undoubtedly contain valuable information for later practice. The heyday of general excommunications was perhaps the two hundred years from c.1250.

The nature of the evidence makes it difficult to know precisely how investigations initiated by general excommunications were conducted in the thirteenth and fourteenth centuries. Not all general excommunications ordered investigations, but this is probably a matter of record rather than an indication that investigations were only sometimes launched: instructions to investigate were extremely formulaic and may often not have been enregistered as a result. Inconsistent record keeping is as likely as inconsistent procedure.³⁶ The majority of mandates order solemn denunciations to be pronounced against the unknown miscreants, and end by instructing the recipient (usually an archdeacon or dean) to inquire ‘diligently’ or ‘in form of law’ into what had happened and into the names of those responsible. Those found were then cited to appear before the bishop. Sometimes a date and place was set for this appearance at the bishop’s ‘court of audience’, typically wherever the bishop happened to be in his diocese.³⁷ Simon of Ghent, bishop of Salisbury, thus ordered the rector of Chilton to conduct an investigation ‘through people not under suspicion [*per non suspectos*]’. The rector was to cite any found guilty or publicly defamed to appear before the bishop at St Mary’s church, Reading, on the third law day after Trinity Sunday (that is, about three weeks after his mandate was dated).³⁸ These formulaic mandates rarely provide even as much information as this, which suggests that the procedure was common. Bishops must have expected more than is usually recorded. Thus only occasionally were recipients instructed to inform the bishop of the names of those cited, but bishops would surely have expected to be told who was going to appear at their courts.³⁹ The investigation was intended to round up suspects, not necessarily to discover the guilty.⁴⁰ A letter in an Ely formulary

³⁶ Many registers contain general sentences with and without the instruction to investigate, which may have been sent as a separate mandate (e.g. *Registrum Johannis de Pontissara*, 312-3). In this case, not bothering to enregister this standard request would make sense. Investigations were conducted where there is no extant mandate to conduct one, e.g. *Register of Ralph of Shrewsbury*, ii, 596-8, 694.

³⁷ e.g. *The Rolls and Register of Bishop Oliver Sutton*, ed. R.M.T. Hill, iv, Lincoln Record Society 52 (1958), 35.

³⁸ *Registrum Simonis de Gandavo, diocesis Saresbiriensis, A.D. 1297–1315*, ed. C.T. Flower and M.C.B. Dawes, 2 vols., CYS 40-1, (1934), i, 171-3.

³⁹ e.g. *Registrum Roberti Winchelsey, Cantuariensis Archiepiscopi, A.D. 1294–1313*, ed. Rose Graham, 2 vols., CYS 51-52 (1952–6), i, 216-17. More usually, recipients were ordered to tell the bishop what they had done.

⁴⁰ And thus might be compared to the Assize of Clarendon: Helmholz, ‘Early history of the grand jury and the canon law’ *University of Chicago Law Review* 613 (1983), 613-27, at 616-17.

(mid-fourteenth century) orders the archdeacon's official to cite those found 'culpable or stained with infamy [*culpabiles seu infamia respesos*]'.⁴¹ Ralph of Salisbury, bishop of Bath and Wells, detailed 'those you find guilty by reputation or fact [*culpabiles fama vel facto*]'.⁴² Similarly, archbishop Winchelsey ordered the bishop of Chichester to cause investigation to be made through local rector, vicars and others he considered suitable, and to cite those found culpable or 'accused [*notatos*]'.⁴³

In many cases, the results of such investigations were not recorded. Nevertheless, we certainly should not assume that bishops merely gave up: episcopal registers are far from exhaustive and uniform in their record-keeping practices. The register of Simon of Ghent contains comparatively more information regarding this process and successful outcomes, but this is probably down to an unusually thorough registrar rather than to a more effective administration. Nor were registers designed to record what had taken place before a bishop's court.⁴⁴ What had happened following citation is generally only recorded in registers if mandates were required to carry out the bishop's judgement. Judging by the anger, shock and indignation frequently expressed in these sentences, the bishops were unlikely to leave these crimes unpunished. Moreover, they had a pastoral duty to correct sinners, as well as considerable incentive to protect the authority of their office by punishing offenders.⁴⁵ These motives were not mutually exclusive. Certainly, some crimes will have remained unsolved: Ralph of Salisbury's register contains cases where nobody was cited because no one had been found guilty, for instance.⁴⁶ Bishops might also have had to contend with negligent or deceitful clergy. Thus in 1280, William Wickwane, archbishop of York, was compelled to deal with the matter personally because the officials appointed failed to conduct the investigation. It is significant, however, that Wickwane ensured action was taken, personally taking on the burden. The culprits were accordingly discovered and duly denounced by name.⁴⁷

The process of investigation becomes clearer in cases where the results were recorded. In the York case just cited, the archbishop investigated the incident (violent

⁴¹ *Vetus Liber Archidiaconatus Eliensis*, ed. Charles Lett Feltoe and Ellis H. Minns (Cambridge, 1917), 176-7.

⁴² *Register of Ralph of Shrewsbury*, ii, 733-4.

⁴³ *Registrum Roberti Winchelsey*, i, 16-18.

⁴⁴ Act books did so, but survive only rarely and in fragments before the fifteenth century.

⁴⁵ See, for example, the rationale for general sentences expressed in *Registrum Simonis de Gandavo*, i, 8-9: failing to punish sinners was negligent.

⁴⁶ *Register of Ralph of Shrewsbury*, ii, 658-61, 694.

⁴⁷ *The Register of William Wickwane, Lord Archbishop of York 1279-1285*, ed. W. Brown, SS 114 (1907), 99-102. Several other letters relate to this case, which continued.

occupation of a church) ‘though trustworthy men’.⁴⁸ On 16 February 1308, Simon of Ghent ordered the ‘truth and circumstances’ of a breach of sanctuary and possible murder in New Windsor, and the names of the malefactors, to be ascertained ‘through trustworthy men and more diligent jurors’.⁴⁹ There is no indication of how many trustworthy men took part nor how they were selected. Ian Forrest’s recent study of the role of trustworthy men might provide some answers.⁵⁰ Canon law does not help here: Helmholz’s study of ecclesiastical juries in England found that they were not discussed in the canon law (though nor were they unlawful under it). These juries usually consisted of about twelve jurors, who could be examined individually. In this sense they were unlike secular juries of presentment.⁵¹ Like secular juries, however, they were meant to report on communal knowledge, the ‘public fame’.⁵² The investigations associated with general excommunications must have been similar to the juries Helmholz discussed, but it is impossible to say to what extent. They appear to be perhaps a little more *ad hoc* than the juries he discussed.

It is clear that the investigations, however conducted, could be very fruitful, providing not only the names of the offenders but a fuller account of the offence itself. Thus it transpired in 1308 that no murder had in fact taken place in New Windsor.⁵³ In the original mandate the bishop evidently had little information; not even the victims were known. Having investigated, the official named the victims as Hugh Ide and Simon le Webbe. He had found nine men and two women, named in the letter, responsible for bloody assault and extraction of Hugh and Simon. He had warned these people to seek absolution by 12 March, but did not proceed further, waiting for further instructions from his bishop. Bishop Simon had ordered the official to act quickly out of concern for souls; the official’s reply was sent less than three weeks after the bishop’s order.⁵⁴

There were a number of possible outcomes for those found guilty or implicated during the investigation. The first option was that they were cited to appear before the bishop but did not do so (or did but showed no remorse or willingness to make amends). It was therefore possible for investigations to be successful, but for the guilty to remain recalcitrant. In such

⁴⁸ *Ibid.*

⁴⁹ *Registrum Simonis de Gandavo*, i, 280-2.

⁵⁰ Forrest, *Trustworthy Men*, particularly 307-30; *idem*, ‘Trust and doubt: the late medieval bishop and local knowledge’, in Frances Andrews, Charlotte Methuen and Andrew Spicer, eds, *Doubting Christianity: The Church and Doubt*, SCH 52 (Cambridge, 2016), 164-85.

⁵¹ Where the jurors were treated as a group.

⁵² Helmholz, ‘Canonical “juries”’. Cf. Helmholz, ‘Early history of the grand jury’.

⁵³ *Registrum Simonis de Gandavo*, i, 280-2.

⁵⁴ *Ibid.*

cases, those cited were being contumacious, even if they had not committed the original offence. They could therefore be judicially excommunicated by name, and could consequently (at least in theory) be shunned by the faithful, denied legal rights and, after forty days, arrested by the sheriff at the bishop's request. There is no knowing how many people excommunicated for contumacy had been through this process, but the assumption that general sentences had lesser practical consequences than those for contumacy should be reconsidered in light of the fact that the latter could result from the former.⁵⁵

The second option was that the accused appeared and attempted to show why they should not be denounced by name. Mandates make clear that those cited were expected to do this. In another case of a fugitive's extraction from sanctuary, the investigation revealed the names of five men who appeared and publicly confessed to wounding and dragging Adam at Wood from Fawler chapel. A sixth man, however, had also been incriminated – the investigation 'pretended' that he was an accomplice. William de la More, the accused, 'expressly denied this', saying instead that he had been helping Adam at Wood. The bishop therefore allowed him to purge himself, with eight compurgators. He thus had to take a formal oath that he was innocent of the crime, and find eight men—known to the accused and of good repute—to swear that they believed he had sworn truthfully. William's ability to prove his innocence thus still relied on a level of support and trust within the community.⁵⁶ If his purgation failed, he was to be dealt with along with the others (who were given public penance). It seems likely that purgation was the most common method of demonstrating one's innocence, but it is possible that there were other options. In 1417/18 certain men who had cut down trees in a cemetery seem to have tried their luck by claiming that 'a certain dementia' had overtaken them.⁵⁷

In the case at New Windsor introduced above, there is some indication that further investigation was made, this time by the 'discrete men' Peter de Periton and Robert de Worth (both later to hold high offices in the diocese).⁵⁸ Some confessed, others were legitimately convicted. The distinction here is unclear, but perhaps the former realised that the game was up, and that if appearing before the bishop was inevitable it would look better to turn themselves in. Significantly, however, the names cited following Periton and Worth's

⁵⁵ Logan, *Excommunication*, 139; Vodola, *Excommunication*, 80, 99, 181-2.

⁵⁶ *Registrum Simonis de Gandavo*, i, 24-6. For compurgation, see R.H. Helmholz, 'Crime, Compurgation and the Courts of the Medieval Church', *Law and History Review*, 1 (1983), 1-26, at 13, 17.

⁵⁷ *The Register of Bishop Philip Repingdon, 1405-1419*, ed. M. Archer, iii, Lincoln Record Society 74 (1982), 254-7. Repingdon appears not to have excused their 'avarice' on this account.

⁵⁸ *Fasti Ecclesiae Anglicanae 1300-1541: Volume 3, Salisbury Diocese*, ed. Joyce M. Horn (London, 1962), 5, 7, 21, 26, 44, 47, 100. Helmholz noted that further inquests could be ordered, 'Canonical "juries"', 414-15.

investigation only partially correspond with those found in the first investigation. Thus Johanna, wife of William Vigerous, appears on the first list of names but not the second, whereas her husband appears on the second but not the first. What happened in the interim is uncertain, but perhaps those ‘legitimately convicted’ had been implicated in the first investigation and their guilt confirmed in the second. During the same process, Johanna Vigerous may have been excused or purged herself.⁵⁹

The final option was that those cited to appear did so, confessed and humbly sought absolution. The penitents would be given public penance and would have to make restitution, returning or replacing stolen items where possible. Those involved in the violence at New Windsor were divided into five groups, given different penances according to the extent of their involvement. Twelve men were to present themselves humbly at the great doors of Salisbury cathedral on Maundy Thursday, with uncovered heads and bare feet. There they were to receive discipline (beatings). They were also to go to New Windsor, where they had committed their offence, every solemn day and Sunday until Holy Trinity and stand outside the church for the entirety of the mass, to show that they were excluded. They were, however, permitted to enter the church on Easter Day and the four following days. They were also to be beaten three times around the church of New Windsor, and once through the market there. The next group, of nine men, were spared going to Salisbury but were otherwise given the same penance. Six men were to offer candles and receive discipline at the doors of New Windsor church. Five women were to be beaten three times each through the market and round the church, and were to stand outside the church on three solemn days while divine services were celebrated. Finally, John Vigerous and Cecilia Coupere were to give alms worth six pence on Good Friday. In each case, the cause of the penance was to be publicly explained to the people, who were to be encouraged to pray for the penitents. The guilty had further been obliged to take the standard oath that they would obey the church’s mandates and not in future infringe ecclesiastical liberty. Otherwise they would automatically fall back into their former sentences of excommunication.⁶⁰ The dean of Reading, put in charge of ensuring these penances were performed, finally wrote back to the bishop on 18 April confirming that all the penances had been started and some had been completed.⁶¹

⁵⁹ *Registrum Simonis de Gandavo*, i, 280-2.

⁶⁰ e.g. the citizens of Beverly who obtained absolution through ‘false prayers’, and were re-excommunicated: *Register of Walter Giffard*, 151.

⁶¹ *Registrum Simonis de Gandavo*, i, 283-4. The dean’s final letter is dated 1309, which may be an error: the manuscript’s layout indicates it could have been added later, but why would it have taken over a year for penances to have been started?

The full detail of this case demonstrates how thorough the process begun by general excommunications could be. Investigations not only discovered the names of the guilty but also allowed penances to be tailored to the nature and circumstances of the offence.⁶² The penances enjoined on the malefactors were of the sort typically prescribed, though penances were not necessarily performed at Easter (here the timing was probably convenient). While it could be argued that the offenders in these cases got off lightly compared to how comparable violence was treated in secular courts, public penance was by no means a negligible punishment.⁶³ The result here was almost certainly exactly what the bishop wished. The guilty were found, forced to confess and seek absolution, and then publicly shamed. The criminals' souls were saved, everyone in the vicinity would have been made aware of their crime, and that the church had discovered and dealt with such sinners.

Often the records of such cases describe public confessions and humble pleas for absolution. As we have seen, however, in fact the full force of the bishop's administrative power provoked these confessions. Thus when three men 'judicially admitted' that they had bound certain people who had fled to the church of Sparsholt, they asked for absolution and were duly given penance. Walter Geffray and William de Chaulawe were to process around the church barefoot on the next three Sundays and feast days, carrying the fetters they had used in their crime. They were to receive discipline at the priest's hands, while their crimes were explained, before the church doors. John called Kyng, however, was to be beaten in the markets of Wantage and Wallingford because he was 'known to have offended more'. This detail implies a fruitful investigation rather than spontaneous confession. Penance performed in marketplaces thus appears to have been viewed as a harsher punishment. That the confession of the three men might not have been entirely voluntary is further indicated by stern instructions about what to do if they refused to carry out their penances. However, since others, still unknown, were believed also to be guilty, the general sentence continued.⁶⁴

Investigations launched by general excommunications against unknown malefactors thus often provided the names of the guilty. The process could be both effective and quick: in cases where the results of the investigations survive, names were typically discovered in weeks. At worst, this simply allowed the culprits to be denounced by name. The names of those illicitly occupying Minety church were discovered within a month; their crimes were

⁶² cf. Fossier, *Le Bureau des Âmes*, 280-4, which discusses inquests to determine appropriate penances.

⁶³ For public penance see Mary C. Mansfield, *The Humiliation of Sinners: Public Penance in Thirteenth-Century France* (London, 1995). It is conceivable that some malefactors did face secular justice; more research is required.

⁶⁴ *Registrum Simonis de Gandavo*, i, 24, 26-8.

‘public and notorious to such an extent that there is absolutely no place for denial ... the whole people of the vicinity stands witness’. The malefactors did not give in easily, however, and the excommunications, now *nominatim* rather than *generaliter*, continued. Additionally, the names of those communicating with the unrepentant excommunicates were to be investigated.⁶⁵ Excommunication was not always a powerful sanction, but it could be coercive in various ways. The power of excommunication in general is another question entirely, but it is important that general sentences against unnamed offenders could *become* sentences against named sinners following these investigations. Then, if excommunication alone did not work, the secular power could be called upon to arrest those hardened sinners. General sentences could demonstrate impotence, but hardly more so than excommunication as a whole. At best, the church was seen to deliver swift punishment of those who had violated its laws. If the guilty presented themselves as humble penitents who had been convinced to see the error of their ways, ecclesiastical discipline appeared strong. Public confessions demonstrated the church’s authority, while imposing absolution also allowed it to appear merciful. The publicity afforded absolutions and public penances is significant; much of this was about the church being *seen* to deal with these breaches of its peace and liberties.

The ability to investigate the names of the guilty changed the nature and power of general sentences. However, one final case cautions against over-emphasising judicial and procedural developments. This process added teeth to general sentences, but built upon and institutionalised, rather than replaced, the existing functions of this type of excommunication. In 1306, trees from the bishop of Hereford’s wood at Ross were cut down and removed. The unknown malefactors were excommunicated and duly discovered. The fourteen men discovered were given penance to be performed around the church and marketplace of Ross (this did not involve beatings). The two ringleaders were to restore the trees taken.⁶⁶ With the culprits thus found and punished, the case was presumably closed. But nine months later, three brothers, John, Richard and Walter Irreby appeared at the bishop’s manor at Ross. They knew that the transgressions committed the previous year incurred excommunication *ipso facto*, and ‘with conscience dictating’ they humbly sought absolution. The bishop received them as ‘penitent and contrite’. Penance was imposed on them – they were to visit the church

⁶⁵ *Registrum Simonis de Gandavo*, i, 138-40, 145-51.

⁶⁶ *Registrum Ricardi Swinfield, episcopi Herefordensis, A.D. 1282-1317*, ed. W.W. Capes, CYS 6 (1909), 407-9.

of Hereford and offer oblations to the Virgin and St Ethelbert there, and to offer 100s. for the fabric of the church.⁶⁷

The memorandum recording all this is different in form to documents following investigations; no inquiry is mentioned. The brothers appeared of their own accord, which makes sense considering that the case had, from the bishop's perspective, been wrapped up months earlier. The language used is that of conscience and repentance. The brothers were perhaps scared for their souls. Perhaps they felt guilty for getting away with a crime for which others had been punished. Alternatively, communal pressure and rumours may have been brought to bear by neighbours who had witnessed the others' public penance, but knew of the Irrebys guilt and deemed it unfair that they had got off scot free. Whether the Irreby brothers were driven by fear, conscience, or more external pressures, it seems clear that they were not forced before the bishop by the authorities. The case demonstrates the complicated, but important, interplay between authorities trying to discover the truth, communities putting pressure on the guilty through gossip and accusations, and individuals being governed by conscience. General excommunications harnessed all these mechanisms.

The case of the Irreby brothers demonstrates, nevertheless, that investigations were not infallible. The church relied on local knowledge, and needed co-operation from the community. Though the community could expect to face sanctions, usually interdict, for being obviously uncooperative, it could nevertheless choose not to aid the church's agents or to pervert the truth. This is particularly likely when the crime incurring excommunication was merely one part of an ongoing dispute, as many were. Understanding the intricacies of events in each case would require a full examination.⁶⁸ Nevertheless, many of these problems apply equally to other medieval legal procedures, particularly juries of presentment. Both secular and ecclesiastical procedures, dependent as they were on communal accusations and suspicion, could be manipulated by the parish elites usually called upon in such situations.⁶⁹ If episcopal investigations were not infallible, they were hardly unique in this respect. Moreover, Ian Forrest has recently argued that when bishops used 'trustworthy men' to garner local knowledge, as they did here, they were willing to accept a certain level of doubt and error.⁷⁰ Provided that *somebody* was found, publicly punished, and forced to make amends, whether or not all or the right people were thus dealt with may have been a lesser

⁶⁷ *Ibid.*, 431-2.

⁶⁸ I have done this in my forthcoming book with the general excommunications concerning the church of Thame, 1292-4.

⁶⁹ Helmholz, 'Early history of the grand jury'; Poos, *Lower Ecclesiastical Jurisdiction*, lx-lxiii.

⁷⁰ Forrest, *Trustworthy Men*. This argument is advanced throughout Part IV. See also *idem*, 'Trust and doubt'.

concern. Forrest's presentation of episcopal authority has much to recommend it, but it perhaps disregards any genuine concern for souls felt by bishops. It certainly did matter if people remained excommunicated. Nevertheless, through this process bishops were fulfilling their duty to do everything in their power to correct souls, even while they may be seen to be demonstrating their authority. They could not be accused of negligence. Moreover, public penance (whoever performed it) was supposed to deter others from committing similar crimes, potentially saving souls.

The practice of general excommunications was both more complex and more effective than has hitherto been recognised. The process initiated by sentences pronounced against unknown malefactors was not without its problems, but many issues involved were common to other contemporary legal processes. Though some failed cases may have shown bishops to be impotent, this was not the general impression. Instead, bishops' spiritual power was shown when they publicly imposed 'the benefit of absolution', preventing sinners from suffering in hell as they would as excommunicates. Their temporal power was shown in their ability to ascertain names of wrongdoers and bring them to justice. If there were flaws in the system, bishops had nevertheless publicly dealt with crimes against the church, either with named excommunication or public penance. Investigations were a crucial development, but they worked alongside rather than replaced general sentences. In the secular sphere, the investigation would be the first step, but the church was able, and indeed bound, to use its spiritual sanction to bolster the legal process.⁷¹ First, public denunciations played an important part in persuading people to co-operate with the investigations. Second, investigations were not always entirely successful. The spiritual fears and possible communal pressure aroused by general sentences thus provided a fall-back, and could also lead to the punishment of the guilty. General excommunication was therefore frequently an efficient and potent process, bringing about justice via a number of interconnected methods.

⁷¹ *Not* publicising that malefactors had incurred automatic excommunication would have been pastorally irresponsible.